CLASSIFICATION OFFICE DECISION

Title of publication:	938 Photo Aug 14 6 09 38 PM.jpg
Other known title(s):	Not stated
OFLC ref:	1600422.007
Medium:	Computer Image File
Publisher:	Not stated
Country of origin:	Not stated
Language:	Not applicable
Applicant:	Secretary for Internal Affairs
Classification:	Objectionable.
Descriptive note:	None
Display conditions:	None
Date of entry in Register:	24 June 2016
Date of direction to issue a label:	No direction to issue a label has been issued
Date of notice of decision:	24 June 2016

Summary of reasons for decision:

The image is classified as objectionable as it deliberately focuses on a prepubescent girl's naked body as she stands in the bath. The image is reasonably capable of being regarded as sexual in nature but it does not reach the high threshold required to establish promotion or support for the exploitation of children for sexual purposes. However, the image exploits the nudity of a child to a high extent and degree. No plausible alternative context or purpose is available and the image has been distributed on the internet, further adding to the exploitation. The classification of the publications limits the right to freedom of expression set out in the New Zealand Bill of Rights Act 1990. However, this is an outcome that is consistent with Parliament's intention in the Films, Videos, and Publications Classification Act 1993. Parliament was concerned to protect the interests of children and the legislation asks the Classification Office to explicitly address child nudity. The decision is reasonable and demonstrably justified. It reflects the concern of a free and democratic society to protect its young and vulnerable members from sexual exploitation.